



8 October 2025

Ms Naomi Menon
Competition Exemptions | Mergers and Exemptions Assessment Division
Australian Competition and Consumer Commission
Level 27, 135 King Street
SYDNEY NSW 2000

Via: Submission Portal

Dear Colleague

**NEW ENERGY TECH CONSUMER CODE - APPLICATION FOR REVOCATION OF
AA1000439 AND SUBSTITUTION OF AUTHORISATION AA1000702 - INTERIM
AUTHORISATION DECISION**

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia.¹ We appreciate the opportunity to provide comment on this consultation on the revised New Energy Tech Consumer Code (NETCC) (the Code).

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

¹ [Australian Finance Industry Association \(afia.asn.au\)](https://afia.asn.au).

AFIA is supportive of voluntary industry codes as a mechanism for self-regulation for delivering quality customer-centric outcomes for people engaging with industry products, services and technologies. We believe industry codes, when implemented across an industry, drive transparency, clarity and trust with customers and stakeholders, and form an important part of our co-regulatory frameworks in Australia.

AFIA is supportive of the Government's policy platform to encourage transition to a 'green grid' through the electrification of Australian households and businesses. We understand the enormity of the task facing the nation in the context of the Nationally Determined Contributions.

Despite this urgency, AFIA calls for ACCC consideration in respect to the unsolicited selling provisions of the Code (Sections 4 and 5). In this context, AFIA is not suggesting a revocation of the ability for sales agents to undertake unsolicited selling, and we note the NETCC requirement that signatories must avoid high-pressure sales tactics and task extra care with vulnerable customers. However, we believe that if these sales practices are to be permitted that further support of the sales agents is required for sales to be done well, minimising the potential or actual incidence of mis-selling and/or consumer harm.

I attach our recent submission in respect to the ACCCs consultation on ***Unsolicited Selling and Leader Generation Review*** for further context. In that submission we recommended several measures to support a customer-centric approach to the NETCC:

- Establishing a dedicated team within the ACCC tasked with monitoring and enforcement around sales malpractice
- Making the NETCC a mandatory code and consider moving administration, compliance and enforcement of the code to an appropriate regulator
- Generating the evidence base via the ACCC review for introducing informed controls on Consumer Energy Resource (CER) sales practices, which could include broader protections through the whole supply chain
- ACCC could consider the need for mandatory training and accreditation of CER sales agents and retailers underpinned by the NETCC and the possibility of a streamlined complaint resolution process for post-installation support.

AFIA believes the inclusion of these measures would introduce a higher level of customer benefit than what is currently considered in the Code, particularly aiming to improve sales practices and address identified concerns with unsolicited selling. Collectively, these measures introduce better sales practices, data, and complaints resolution processes that are consistent with a customer-centric industry code, and which are not currently catered for in the current drafting of the NETCC. Thank you for this opportunity to contribute to your considerations. Should you wish to discuss our submission or require additional information please contact me at Emma.Penzo@afia.asn.au.

Yours sincerely



Dr Emma Penzo

Head of Regulatory Policy

(annexure: AFIA submission to the ACCCs consultation on *Unsolicited Selling and Leader Generation Review*)

ANNEXURE



Australian
Finance
Industry
Association



1 August 2025

Ms Libby Darwin
Executive General Manager
Consumer Compliance Strategies
Consumer Fair Trading
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601
Via email: unsolicitedsellingreview@accc.gov.au

Dear Ms Darwin

UNSOLICITED SELLING AND LEAD GENERATION REVIEW - CONSULTATION

The Australian Finance Industry Association (AFIA), FinTech Australia and the Tech Council of Australia welcome the Australian Competition and Consumer Commission's (ACCC) decision to conduct a review into unsolicited selling and lead generation practices.¹ An evidence-based approach is essential to ensuring consumer protections are effective and proportionate in sale of consumer energy resources (CER). Consumer confidence is key to continued rollout of CER.

We note the review will not cover Buy Now Pay Later (BNPL) issues directly, as the BNPL sector is now subject to new regulations that ensure high standards and consumer safeguards across the industry, administered by the Australian Securities and Investments Commission (ASIC).²

However, we welcome the opportunity to contribute insights on how finance can expand consumer choice and enable safe, affordable access to essential products and services in a way that protects and empowers consumers.

¹ ACCC, *Unsolicited selling and lead generation review – consultation*, ([17 June 2025](#)).

² ACCC, *Further Action Notice – June 2025 – Consumer Act Law Centre*, ([17 June 2025](#)), p. 2.

BNPL FINANCE

The ACCC has said they are seeking to better understand the role BNPL finance may play in unsolicited selling, and whether the new regulatory reforms may affect its use in unsolicited selling.³

The *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024* and its supporting Regulations took effect from 10 June 2025.⁴ This includes a modified responsible lending regime under the *National Consumer Credit Protection Act 2009*, which will make it harder for third party consumer energy resources (CER) retailers to engage in sales malpractice. As the ACCC's consultation paper notes, this includes a requirement for BNPL providers to hold an Australian Credit License (ACL) and be members of the Australian Financial Complaints Authority.⁵

It's important to note that BNPL providers do not receive commissions from CER retailers upon the sale of solar products. We are of the view that poor outcomes from unsolicited sales of solar products are the result of poor retailer sales practices, rather than the method of financing for these products.

In 2019 the ACCC authorised the New Energy Tech Consumer Code (NETCC or the Code) with conditions requiring that BNPL providers meet certain requirements before being able to offer finance arrangements under the Code, and that the Code prohibit BNPL finance being offered in unsolicited sales of NETCC products. The wording in the ACCC's final determination mandated under that "any finance arrangement offered by a signatory to the NETCC in an unsolicited sale of New Energy Tech will be regulated by the NCCPA."⁶ At the time, this condition excluded BNPL finance arrangements and had the effect of prohibiting BNPL payment arrangements from being offered in unsolicited sales by Code signatories.

However, this prohibition was revoked in 2020 following the Australian Competition Tribunal's decision to vary the conditions imposed by the ACCC.⁷

As the ACCC noted following the Tribunal's decision:

... the Tribunal concluded that the detailed evidence before it did not establish that the provision of BNPL finance with new energy tech products generated material consumer harm. It also found

³ ACCC, *Unsolicited selling and lead generation - consultation paper*, ([17 June 2025](#)), p. 14.

⁴ [Treasury Laws Amendment \(Responsible Buy Now Pay Later and Other Measures\) Act 2024, Schedule 2](#).

⁵ ACCC, *Unsolicited selling and lead generation - consultation paper*, ([17 June 2025](#)), p. 14

⁶ ACCC, *Final Determination - Application for authorisation AA1000439 lodged by Australian Energy Council (AEC), Clean Energy Council (CEC), Smart Energy Council (SEC) and Energy Consumers Australia (ECA) (together the Applicants) in respect of the New Energy Tech Consumer Code*, ([5 December 2019](#)).

⁷ ACCC, *Australian Competition Tribunal authorises New Energy Tech Consumer Code*, ([15 September 2020](#)).

that there was substantial detriment in restricting BNPL finance options to consumers and that BNPL was a significant and popular form of finance that provided economic benefits.

The Tribunal also considered that any harm which may arise by unlawful selling of these products could be reduced by the consumer protections contained in the code.

The Tribunal further noted that ASIC has been actively considering whether the National Consumer Credit laws should be extended to cover BNPL finance and that ASIC's review of the sector will have more evidence before it to consider whether such an extension is warranted.⁸

On 1 March 2021, AFIA introduced the BNPL Code of Practice (the BNPL Code) as a world-first and has been important in setting best practice standards and strengthening consumer protections, with a number of the industry commitments made in the BNPL Code now embedded in the BNPL regulatory framework. The signatories to the BNPL Code represent an estimated 75 percent of the BNPL market.

The Code clarifies that signatories 'will take all reasonable steps to ensure that our BNPL Products and Services are not used or suggested in relation to unlawful unsolicited marketing or selling of BNPL Products and Services.'⁹ The Code makes it clear that BNPL products are not to be used in an unlawful unsolicited sales, and prohibits unsolicited marketing of unlawful sales.¹⁰

Since then, legislation has been enacted to incorporate BNPL products under the NCCP Act 2009 in the form of regulated low cost credit contracts (LCCC), with important consumer protections in the BNPL Code now contained in the new laws, such as responsible lending, complaint handling, and financial hardship. Additionally, there are existing prohibitions in the NCCP Act 2009 around unsolicited selling. AFIA's Code is currently being updated to reflect the new laws. Where there are sections of Code that are impacted by or conflict with the new laws, the law operates in place of the Code.

The regulatory changes will help target sales malpractice, including mandating that BNPL providers conduct robust credit assessments on customers, verifying a customer's income and financial situation. This brings BNPL providers under similar responsible lending obligations as other credit providers under the NCCP Act; to provide loans that are "not unsuitable" for the customer. Furthermore, the new laws extend the definition of "credit assistance" to include activities related to BNPL products. This will make it more difficult for third party retailers to engage in sales malpractices.

AFIA, Fintech Australia and the Tech Council recommend that regulators and policymakers monitor the impact of the new BNPL regulations under the NCCP Act with respect to unsolicited selling, which

⁸ Ibid.

⁹ [BNPL Code, Section 9.5](#)

¹⁰ BNPL Code, Section 9.6.

includes increased requirements for financiers to possess a credit licence and conduct further income verification.

We also note that in addition to the NCCP Act, Australian Consumer Law already contains consumer protections in relation to unsolicited sales by door-to-door salespeople and telemarketers. The requirements include:

- How and when they can approach a customer
- The information they must provide to a customer, including disclosures in the unsolicited consumer agreement
- Cancellation rights (cooling off periods).

The proper training of sales agents to comply with Australian Consumer Law is critical to protect vulnerable households.

CONSUMER ENERGY RESOURCES (CER) SALES PRACTICES

AFIA, Fintech Australia and the Tech Council are of the view that there is no evidence to suggest that the majority of CER retailers operate outside legal boundaries. However, like any other sector, there is no question that sales malpractice from third party solar retailers occurs in the CER sector — but we note that given the rapid growth of the industry as a direct result of incentives it is more likely that these instances are proportionate to the rapid growth of the industry.

An aspect of CER sales that is the subject of this review is unsolicited selling, such as doorknocking, cold calling and some elements of social media advertising. These methods can increase the risk of vulnerable households being locked into unfair or unsustainable financial commitments. It's in the commercial interest of BNPL finance providers to ensure loans are only provided to households that can repay them.

Individual companies and industry associations make efforts to reduce the frequency and impact of misconduct. For example, some finance providers provide accreditation to vendors accompanying a credit contract, mediate in vendor-customer disputes and suspend relationships with problematic salespeople and businesses. However, consumer protection and household contribution to net zero are too expansive and important to be left to individual company policies and industry self-regulation.

A variety of schemes exist to prevent inappropriate CER sales practices, including federal regulation under Australian Consumer Law, legislation and fair-trading bodies at the state level, and industry-led codes. This collection of disparate frameworks provides important protections, but it leaves gaps where unscrupulous vendors can operate.

The NETCC, authorised by the ACCC, is a set of standards for retailers that is designed to protect consumers. According to the Clean Energy Council, NET includes, but is not limited to, solar photovoltaic (PV) systems, wind turbines, hydro and bioenergy generators, microgrids, energy managements products,

energy storage products, power purchase agreements (PPAs), electric vehicle charging services, as well as new and emerging technologies.¹¹

As the consultation paper notes, many retailers use the availability of government loans, rebates and subsidies as a means to make unsolicited sales, through informing the customer of the availability of these schemes.¹² However, there is inconsistency across various state-government solar and battery incentives programs with respect to requirements for participating retailers to be signatories of the NETCC.

State	NETCC for solar	NETCC for batteries
WA	n/a	Yes ¹³
ACT	Yes	Yes ¹⁴
TAS	Yes ¹⁵	Yes ¹⁶
VIC	Yes ¹⁷	n/a
NSW	No – Yes- Solar for Apartment Residents Grant ¹⁸	No
CEFC Household Energy Upgrades Fund (Federal)	Yes ¹⁹	Yes ²⁰

The ACCC's policy response to the issue of unsolicited selling and lead generation should be evidence based, and leverage existing consumer protection mechanisms in law, and industry self-regulation.

¹¹ Clean Energy Council, *NETCC program for retailers*, (accessed 31 July 2025)

<https://cleanenergycouncil.org.au/industry-programs/retailers>.

¹² ACCC, *Unsolicited selling and lead generation - consultation paper*, (17 June 2025), p. 14

¹³ Government of Western Australia, *WA Residential Battery Scheme – Information for Industry*, (16 July 2025).

¹⁴ ACT Government, *Sustainable Households Scheme – Household Guidelines*, (accessed 31 July 2025)

https://www.climatechoices.act.gov.au/_data/assets/pdf_file/0010/1861570/sustainable-household-scheme-guidelines-for-participants.pdf

¹⁵ Renewables, Climate and Future Industries Tasmania, *Tasmania's Energy Saver Loan Scheme*, (accessed 31 July 2025) https://recfit.tas.gov.au/grants_programs/energy-efficiency/energy_saver_loan_scheme

¹⁶ Ibid.

¹⁷ Solar Victoria, *Consumer protection core to new energy tech code*, (26 April 2023).

¹⁸ NSW Government, *Solar for Apartment (SoAR) Grant Program*, (accessed 31 July 2025)

<https://www.nsw.gov.au/grants-and-funding/solar-for-apartment-residents-soar-grant-program>

¹⁹ NETCC, *Household Energy Upgrades Fund includes NETCC program*, (31 October 2024).

²⁰ Ibid.

Banning a particular sales practice would slow down clean energy adoption and would constitute a reactive measure. It would negatively impact legitimate businesses acting appropriately, reduce consumer access to information, and simply push poor behaving sales agents into other channels.

Instead, in the short term, we recommend:

- o Establishing a dedicated team within the ACCC tasked with monitoring and enforcement around sales malpractice.
- o Making the NETCC a mandatory code and consider moving administration, compliance and enforcement of the code to an appropriate regulator.
- o Generating the evidence base via the ACCC review for introducing informed controls on CER sales practices, which could include broader protections through the whole supply chain.

In the long term, we recommend that the ACCC consider the need for mandatory training and accreditation of CER sales agents and retailers underpinned by an industry-wide code such as the NETCC, and the possibility of a streamlined complaint resolution process for post-installation support.

CLOSING COMMENTS

Thank you for the opportunity to contribute to this important review of unsolicited selling practices and consumer energy resources (CER).

We would appreciate the opportunity to discuss our recommendations and provide the ACCC with further information about the specialised products, services and technologies offered by lenders and fintech companies. Should you wish to discuss our submission or require additional information, please contact AFIA Senior Policy Advisor, David Delprat at david.delprat@afia.asn.au.

Yours sincerely

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